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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,202	08/31/2001	John Brooks Smith	7152	4500

29602 7590 08/19/2005

JOHNS MANVILLE INTERNATIONAL, INC.
717 SEVENTEENTH STREET
DENVER, CO 80202

EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/945,202	SMITH ET AL.	
	Examiner	Art Unit	
	Jane Rhee	1745	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-32.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.


PATRICK JOSEPH RYAN
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: In response to applicant's argument that Berdan II doesn't disclose or suggest packing two types of fibrous insulation batts together in a package and clearly does not disclose or suggest packaging both uncut and precut fibrous insulation batts together in a package to facilitate the insulation of both standard width and non-standard width cavities, Weinstein et al. was combined with Berdan II to teach packaging both uncut and precut fibrous insulation batts together in a package to facilitate the insulation of both standard width and nonstandard width cavities. Berdan II teaches a plurality of resilient uncut fibrous insulation batt, and Weinstein et al. teaches a plurality of precut resilient fibrous insulation batt for the purpose of providing batts which can be used to either insulate standard width framework cavities or be quickly and easily reduced in width to fit less than standard width cavities without the need to cut the fibrous insulation blankets at the job site with knives or similar cutting tools (col. 2 lines 18-24). Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Berdan II with a plurality of precut resilient fibrous insulation batt in order to provide batts which can be used to either insulate standard width framework cavities or be quickly and easily reduced in width to fit less than standard width cavities without the need to cut the fibrous insulation blankets at the job site with knives or similar cutting tools (col. 2 lines 18-24).

In response to applicant's argument that neither Berdan II and Weinstein et al. do not disclose or suggest an insulation package containing a stack of both uncut and precut resilient fibrous insulation batts wherein the stack of resilient insulation batts contained with in the package includes between 20% and 70% precut fibrous insulation batts and between 30% and 80% uncut fibrous insulation batts, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Berdan with between 30% and 80% of uncut insulation batts and between 20% and 70% of precut insulations batts depending on the amount of elongated cavities of standard distance and nonstandard distance are formed in the walls, ceilings, floors and/or roofs since Weinstein et al. teaches that it is common for 50% or more of the framing members in the exterior walls of these structures to be spaced apart at nonstandard distances that are less than the standard spacing for such framing members (col. 1 lines 39-42).

In response to applicant's argument Allwein et al. does not disclose or suggest individual insulation batts that are separated longitudinally, that have envelopes that are separable longitudinally, or that have longitudinally extending tabs in the envelopes between the side or lateral tabs, applicant did not claim that the individual insulation batts are separated longitudinally, or that have envelopes that are separable longitudinally, or that have longitudinally extending tabs in the envelopes between the side or lateral tabs. Applicant claimed that that each of the facing sheets has a first pair of tabs adjacent lateral edges of the first major surface of and extending along the length of the resilient fibrous insulation batt to which the facing sheet is bonded, and each of the facing sheets bonded to one of the precut fibrous insulation batts has additional pairs of tabs, at least substantially aligned with the separable connector means of and extending along the length of he precut fibrous insulating batt to which the facing sheet is bonded and Allwein et al. teaches that each of the facing sheets has a first pair of tabs adjacent lateral edges of the first major surface of and extending along the length of the resilient fibrous insulation batt (figure 2 number 32 and 36) to which the facing sheet is bonded, and each of the facing sheets bonded to one of the precut fibrous insulation batts has additional pairs of tabs, at least substantially aligned with the separable connector means (figure 1 number 42) of and extending along the length of he precut fibrous insulating batt to which the facing sheet is bonded for the purpose of sealing the facing material together and reducing the likelihood of the dust and fibers becoming a possible irritant to the workers handling and installing the insulation assemblies (col. 4 lines 35-50).